

House Study Bill 617 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

1 An Act establishing the facilitating business rapid response to
2 state-declared disasters Act, and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS. The general assembly finds all of the
2 following:

3 1. During times of disaster or emergency, many businesses
4 bring in resources and personnel from other states on a
5 temporary basis to expedite the often enormous and overwhelming
6 task of cleaning up, restoring, and repairing damaged
7 buildings, equipment, and property, or even deploying or
8 building replacement facilities in the state.

9 2. These undertakings may involve the need for out-of-state
10 businesses, including out-of-state affiliates of businesses
11 based in the state, to bring in resources, property,
12 or personnel to perform activities related to critical
13 infrastructure in the state, including but not limited to
14 repairing, renovating, installing, building, and rendering
15 services or other business activities, and for which personnel
16 may be located in the state for extended periods of time to
17 perform such activities.

18 3. During such time of operating in the state on a
19 temporary basis solely for purposes of helping the state
20 recover from the disaster or emergency, these businesses and
21 individual employees should not be burdened by any requirements
22 for business and employee taxes as a result of such activities
23 in the state, and the state's nexus and residency thresholds
24 should not be applied to businesses and individuals coming into
25 the state on a temporary basis to provide help and assistance
26 in response to a declared state disaster or emergency.

27 4. To ensure that businesses may focus on quick response
28 to the needs of the state and its citizens during a declared
29 state disaster or emergency it is appropriate for the general
30 assembly to deem that such activity for a reasonable period of
31 time before, during, and after the disaster or emergency shall
32 not establish presence, residency, or doing business in the
33 state or any other criteria for purposes of state and local
34 taxes, licensing, and regulatory requirements.

35 Sec. 2. Section 29C.1, subsection 3, Code 2016, is amended

1 to read as follows:

2 3. To provide for the rendering of mutual aid among the
3 political subdivisions of the state and with other states,
4 ~~and~~ to cooperate with the federal government with respect to
5 the carrying out of emergency management functions, and to
6 facilitate the rapid response of businesses and workers in the
7 state and other states to a disaster.

8 Sec. 3. NEW SECTION. **29C.24 Facilitating business rapid**
9 **response to state-declared disasters Act.**

10 1. *Title.* This section may be cited as the "*Facilitating*
11 *Business Rapid Response to State-Declared Disasters Act*".

12 2. *Definitions.* For purposes of this section, unless the
13 context otherwise requires:

14 a. (1) "*Critical infrastructure*" means real and personal
15 property and equipment owned or used by any of the following
16 networks or systems, including related support facilities,
17 which network or system provides service to more than one
18 customer or person:

19 (a) Communication networks.

20 (b) Electric generation, transmission, and distribution
21 systems.

22 (c) Gas distribution systems.

23 (d) Water pipeline systems.

24 (2) "*Critical infrastructure*" includes but is not limited
25 to buildings, structures, offices, lines, poles, pipes, and
26 equipment.

27 b. "*Declared state disaster or emergency*" means a disaster
28 or emergency event that meets at least one of the following
29 conditions:

30 (1) A disaster emergency proclamation has been issued by the
31 governor pursuant to section 29C.6 in relation to the event.

32 (2) A presidential declaration of a major disaster has been
33 issued in relation to the event.

34 c. "*Disaster or emergency-related work*" means repairing,
35 renovating, installing, building, or rendering services

1 or other business activities, that relate to critical
2 infrastructure that has been damaged, impaired, or destroyed by
3 a declared state disaster or emergency.

4 *d. "Disaster response period"* means, with respect to
5 each declared state disaster or emergency, a period of time
6 that begins ten calendar days prior to the day the governor
7 proclaims a disaster emergency or the president declares a
8 major disaster, whichever occurs first, and extends for a
9 period of sixty calendar days after the end of the declared
10 state disaster or emergency.

11 *e. (1) "Out-of-state business"* means a business entity that
12 meets all of the following requirements:

13 (a) The business entity is requested to perform disaster or
14 emergency-related work in the state by a registered business or
15 by the state or a political subdivision of the state.

16 (b) Except for disaster and emergency-related work, the
17 business entity has no presence in the state and conducts no
18 business in the state.

19 (c) Except for disaster and emergency-related work, the
20 business entity had no registrations, tax filings, or nexus in
21 the state for the tax year immediately preceding the year in
22 which the relevant declared state disaster or emergency occurs.

23 (2) *"Out-of-state business"* may include a business entity
24 that is affiliated with a registered business solely through
25 common ownership.

26 *f. "Out-of-state employee"* means an employee who does
27 not work in this state except to perform disaster or
28 emergency-related work during a disaster response period.

29 *g. "Registered business"* means a business entity that is
30 registered to do business in the state prior to the declared
31 state disaster or emergency.

32 3. *Business and employee status during disaster response*
33 *period.*

34 *a.* Notwithstanding any other provision of law to the
35 contrary, an out-of-state business that conducts operations

1 within the state solely for the purpose of performing disaster
2 or emergency-related work during a disaster response period
3 shall not be considered to have established a level of presence
4 that would subject the out-of-state business to any of the
5 following:

6 (1) The requirement to complete or obtain any state or local
7 business or occupational registration, permit, certification,
8 or license, or pay any related fee, including but not limited
9 to the requirement to register with the secretary of state,
10 the department of revenue, or a political subdivision. This
11 subparagraph (1) does not apply to the notification requirement
12 in subsection 5.

13 (2) (a) The requirement to collect and remit any
14 tax imposed upon another person or file any related tax
15 return. This subparagraph division (a) does not apply to an
16 out-of-state business for the collection and remittance of
17 sales and use taxes under chapter 423 if the out-of-state
18 business is registered voluntarily as a seller under the
19 streamlined sales and use tax agreement.

20 (b) Subparagraph division (a) shall not be construed to
21 protect or otherwise exempt any person liable for the payment
22 of a tax, other than the out-of-state business, from the
23 responsibility to pay such tax.

24 (3) The imposition of income taxes under chapter 422,
25 divisions II and III, including the requirement to file tax
26 returns under sections 422.13 through 422.15 or 422.36, as
27 applicable, and including the requirement to withhold and remit
28 income tax from out-of-state employees under section 422.16.
29 In addition, the performance of disaster or emergency-related
30 work during a disaster response period by an out-of-state
31 business or out-of-state employee shall not require an
32 out-of-state business to be included in a consolidated return
33 under section 422.37, and shall not increase the amount of net
34 income of the out-of-state business allocated and apportioned
35 to the state under sections 422.8 or 422.33, as applicable.

1 (4) The employment security requirements under chapter
2 96, including but not limited to the payment of employer
3 contributions under section 96.7.

4 (5) The use tax under chapter 423, subchapter III, or
5 the equipment tax under chapter 423D, on tangible personal
6 property or equipment purchased outside the state and brought
7 into the state to aid in the performance of disaster or
8 emergency-related work during a disaster response period if
9 such tangible personal property or equipment does not remain in
10 the state after the conclusion of the disaster response period.

11 (6) The assessment of property taxes by the department of
12 revenue under sections 428.24 through 428.29, or chapters 433,
13 434, and 437 through 438, or by a local assessor under another
14 provision of law, on property brought into the state to aid in
15 the performance of disaster or emergency-related work during a
16 disaster period if such property does not remain in the state
17 after the conclusion of the disaster response period.

18 *b.* Notwithstanding any other provision of law to the
19 contrary, the performance of disaster or emergency-related
20 work during a disaster response period by an out-of-state
21 employee shall not be used as the basis to determine that the
22 out-of-state employee has established residency or a level of
23 presence that would subject the out-of-state employee to any
24 of the following:

25 (1) The requirement to complete or obtain any state or local
26 business or occupational registration, permit, certification,
27 or license, or pay any related fee, including but not limited
28 to the requirement to register with the secretary of state, the
29 department of revenue, or with a political subdivision.

30 (2) The imposition of income taxes under chapter 422,
31 division II, including the requirement to file tax returns
32 under section 422.13 and the requirement to be subject to
33 withholding of income tax under section 422.16. In addition,
34 the performance of disaster or emergency-related work during a
35 disaster response period by an out-of-state employee shall not

1 increase the amount of net income of the out-of-state employee
2 allocated and apportioned to the state under section 422.8.

3 (3) The use tax under chapter 423, subchapter III, or the
4 equipment tax under chapter 423D, on tangible personal property
5 or equipment purchased outside the state and used in the state
6 to aid in the performance of disaster or emergency-related work
7 during a disaster response period if such tangible personal
8 property or equipment does not remain in the state after the
9 conclusion of the disaster response period.

10 c. During a disaster response period, an out-of-state
11 business or an out-of-state employee shall be subject to all
12 taxes and fees not included in paragraphs "a" and "b", and this
13 subsection shall not be construed to provide protection or
14 exemption during a disaster response period or any other period
15 from taxes or taxable events not included in paragraphs "a" and
16 "b".

17 4. *Business and employee status after a disaster response*
18 *period.* An out-of-state business or out-of-state employee
19 that remains in the state after the conclusion of the disaster
20 response period for which the disaster or emergency-related
21 work was performed shall be fully subject to the state's
22 standards for establishing presence, residency, or doing
23 business as otherwise provided by law, and shall be responsible
24 for any resulting taxes, fees, licensing, registration, filing,
25 or other requirements.

26 5. *Notification of out-of-state business during disaster*
27 *response period.*

28 a. An out-of-state business that enters the state to perform
29 disaster and emergency-related work during a disaster response
30 period shall provide notification to the secretary of state,
31 which notification shall contain all the following information
32 related to the out-of-state business:

- 33 (1) Name.
34 (2) State of domicile.
35 (3) Principal business address.

1 (4) Federal employer identification number.

2 (5) The date the out-of-state business entered the state.

3 (6) Contact information.

4 (7) A statement that the out-of-state business is in
5 the state for the purpose of responding to a declared state
6 disaster or emergency.

7 *b.* For an out-of-state business that enters this state to
8 perform disaster and emergency-related work during a disaster
9 response period as an affiliate of a registered business, the
10 registered business shall provide, on behalf of the affiliate
11 out-of-state business, the notification required in paragraph
12 "a", which notification shall also include contact information
13 for the registered business.

14 *c.* The secretary of state shall transmit notification
15 information to the department, department of revenue, and other
16 appropriate state and local government agencies and officials.

17 6. *Rules.* The department, the secretary of state, and
18 the department of revenue shall each adopt rules pursuant to
19 chapter 17A to jointly administer this section.

20 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
21 immediate importance, takes effect upon enactment.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill establishes the "Facilitating Business Rapid
26 Response to State-Declared Disasters Act" and provides findings
27 and definitions. The bill also amends the statement of policy
28 in Code chapter 29C (Emergency Management and Security).

29 The bill provides that notwithstanding any law to the
30 contrary, an out-of-state business or an out-of-state employee
31 that performs disaster and emergency-related work during a
32 disaster response period will be protected from, and shall not
33 be subject to, certain taxes, fees, licensing, registration,
34 filing, and other requirements, as specified in the bill.

35 "Disaster response period" is defined as a period of time

1 beginning 10 days before the governor proclaims a state
2 disaster or emergency or the president declares a major
3 disaster in the state, and ends 60 days after the end of
4 the declared state disaster or emergency. "Disaster and
5 emergency-related work" is defined to include a variety of work
6 on critical infrastructure damaged, impaired, or destroyed
7 by the declared state disaster or emergency. "Critical
8 infrastructure" is defined to include property and equipment
9 owned or used by a communication network; electric generation,
10 transmission, and distribution system; gas distribution
11 system; water pipeline system; or a related support facility
12 of those networks or systems. The network or system must
13 provide service to more than one customer or person. "Critical
14 infrastructure" includes but is not limited to buildings,
15 structures, offices, lines, poles, pipes, and equipment.

16 OUT-OF-STATE BUSINESSES. The bill defines "out-of-state
17 business" and provides that an out-of-state business performing
18 disaster and emergency-related work during a disaster response
19 period shall not be considered to have established a level of
20 presence that would subject it to the following:

21 1. The requirement to obtain any state or local business or
22 occupational registration, permit, certification, or license,
23 or pay any related fee.

24 2. The requirement to collect and remit any tax imposed upon
25 another person, or file any related tax return, except for the
26 collection of sales and use tax by an out-of-state business
27 registered voluntarily as a seller under the streamlined sales
28 and use tax agreement.

29 3. The requirement to pay the individual or corporate
30 income tax, including the requirement to file a tax return
31 or be included in a consolidated tax return, withhold and
32 remit income tax from out-of-state employees, or increase the
33 amount of the out-of-state business's net income allocated
34 and apportioned to Iowa as a result of the disaster and
35 emergency-related work.

1 4. The requirement to be subject to the employment security
2 requirements of Code chapter 96, including but not limited to
3 the requirement to make employer contributions.

4 5. For tangible personal property and equipment purchased
5 outside of Iowa and brought into the state to aid in the
6 performance of disaster or emergency-related work, the
7 requirement to pay use tax or equipment tax on the property, or
8 have the property assessed for property tax purposes, provided
9 the property does not remain in the state after the disaster
10 response period.

11 Out-of-state businesses that enter the state to perform
12 disaster and emergency-related work during a disaster response
13 period are required to provide a notification containing
14 various information to the secretary of state. If the
15 out-of-state business enters the state as an affiliate of a
16 registered business, the registered business must provide the
17 required notification on behalf of the out-of-state business.
18 "Registered business" is defined in the bill. The secretary of
19 state is required to share the notification information with
20 various state and local agencies and officials as specified in
21 the bill.

22 OUT-OF-STATE EMPLOYEES. The bill defines "out-of-state
23 employee" and provides that the performance of disaster or
24 emergency-related work during a disaster response period by
25 an out-of-state employee shall not be used as the basis to
26 determine the out-of-state employee has established residency
27 or a level of presence that would subject the out-of-state
28 employee to the following:

29 1. The requirement to obtain any state or local business or
30 occupational registration, permit, certification, or license,
31 or pay any related fee.

32 2. The requirement to pay the individual income tax or
33 file a tax return, be subject to income tax withholding, or
34 increase the amount of the out-of-state employee's net income
35 allocated and apportioned to Iowa as a result of the disaster

1 and emergency-related work.

2 3. The requirement to pay use tax or equipment tax on
3 tangible personal property and equipment purchased outside of
4 Iowa and brought into the state to aid in the performance of
5 disaster or emergency-related work, provided the property does
6 not remain in the state after the disaster response period.

7 The bill provides that out-of-state businesses and
8 out-of-state employees shall be subject to all taxes and fees
9 not specifically included in the bill, and provides that
10 out-of-state businesses and out-of-state employees that remain
11 in Iowa after the conclusion of the disaster response period
12 shall be fully subject to Iowa's standards for establishing
13 presence, residency, or doing business as otherwise provided by
14 law, and shall be responsible for any resulting taxes, fees,
15 licensing, registration, filing, or other requirements.

16 The bill takes effect upon enactment.